

Members

Sen. Luke Kenley, Chairperson
Sen. Teresa Lubbers
Sen. Lindel Hume
Sen. Richard Young
Rep. Jerry Denbo
Rep. John Frenz
Rep. Michael Murphy
Rep. Phil Hinkle



ADMINISTRATIVE RULES OVERSIGHT COMMITTEE

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Authority: IC 2-5-18

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MEETING MINUTES¹

Meeting Date: September 10, 2002
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. Luke Kenley, Chairperson; Sen. Teresa Lubbers; Sen. Lindel Hume; Sen. Richard Young; Rep. Jerry Denbo; Rep. John Frenz; Rep. Michael Murphy; Rep. Phil Hinkle.

Members Absent: None.

I. Introductions

Senator Kenley called the meeting to order at 10:05 A.M. After the members introduced themselves, Senator Kenley explained that the Legislative Council had asked the Committee to look into issues surrounding commercial driver's licenses. Senator Kenley then reviewed the duties of the Committee found in IC 2-5-18-8. The law states that the Committee has the authority to review rules and practices of agencies.

II. Bureau of Motor Vehicles Procedures Regarding Identification Required for Driver's Licenses

A. Attorney General Steve Carter explained that a suit has been filed concerning the new identification requirements being used by the Bureau of Motor Vehicles for driver's licenses and license renewals. The Attorney General stated that there are serious security

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concerns involved in the issuance of driver's licenses. Access to the transportation system is something terrorists seek. The safety of Indiana motorists and the issuance of licenses are a legitimate concern. Also, driver's license security is important in the prevention of identity theft.

Attorney General Carter said that his office is responsible for reviewing administrative rules. He has been working to keep legislators informed about rules by including information concerning rules that are being reviewed by his office on his web site and notifying legislators. It is important for agencies to remain within their authority when promulgating rules. The Attorney General is also responsible for defending the class action lawsuit which has been filed in response to the Bureau's procedures for requiring identification for driver's licenses.

Because so much is at stake in the driver's license process, there is a need for public input into policy making decisions. The Bureau should seek additional input into the process, which could have been done through the rule making process. Using the rule making process would have allowed the agency to receive thoughtful input on the best way to balance security needs and consumer needs.

B. Gerald Coleman, Commissioner of the Bureau of Motor Vehicles, prefaced his comments by explaining that the procedures were a matter of litigation which could limit his responses in some areas. Commissioner Coleman explained that the new identification procedures were implemented in response to terrorism issues. Forty other states have made changes tightening requirements for receipt of driver's licenses. On July 12, 2002, the Bureau along with the Counter Terrorism Council announced that Indiana was requiring more identification for the receipt and renewal of driver's licenses. The new policy took effect on July 15, 2002. The very short period of notice was intentional. Prior to the new requirements, Indiana was known for having a system where it was very easy to receive a driver's license. The Bureau did not want to give notice to people who might want a driver's license for purposes that were not legitimate so they could rush in and get licenses before the requirements were tightened up. Commissioner Coleman stated that the actions taken by the Bureau were the right thing to do and were fully in accord with state law. He said that even when the changes were announced, the Bureau said that changes and modifications were very likely and that the policies would be reviewed. Three weeks ago, the Bureau began working on developing some specific changes.

The members asked a number of questions about the documents which, according to information from the Bureau's web site, could be used for identification. (Exhibit 1) Members related a number of problems their constituents had with renewing or replacing licenses. The Commissioner indicated that there was a great deal of confusion at first concerning what documents to bring to the branches, however, that has been lessening. In answer to a question from Representative Frenz, Commissioner Coleman stated that the new requirements were not in response to a federal mandate but solely Indiana's choice. The Committee members also expressed concern that once the procedures were in place there could have been more education of the public about what was needed.

The questions and comments also centered on the education of the public and the license branch staff and on how a rule making process with public input could have made the policies more responsive to the needs of the public. The Committee members expressed their desire that even though changes are being contemplated, the Bureau should consider beginning a formal rule making procedure to ensure maximum input.

C. Mr. Vincent Perez, Attorney for the Indianapolis Hispanic Chamber of Commerce, stated that everyone would agree that the intent of requiring additional identification was

okay. The problem, according to Mr. Perez, was with the application of the new procedures. He sees the driver's license issue as a sub-issue which the Hispanic Chamber needs to address. The issue is how immigrants are recognized as part of the workforce. The ability to receive a driver's license is critical to employment. In response to comments from Committee members, Mr. Perez agreed that having bilingual employees at the license branches would be beneficial. In response to questions, Mr. Perez responded that he thought a formal rule making process would have been beneficial in this situation.

D. Mr. John Broyles, immigration attorney, addressed issues with the new identification requirements, including the status of foreign students, legal refugees, spouses of legal non-immigrants, and illegal aliens who are not classified for work and cannot receive a Social Security number and hence cannot receive a license. During the discussion about those who cannot obtain a Social Security number, Commissioner Coleman stated that if people do not have Social Security numbers, they can still obtain a license. The members of the Committee responded that this information should be included on the Bureau's web site.

Mr. Broyles said that he thought there needed to be public debate and rule making on this issue. There needs to be more education at the license branches. There needs to be some modification in the documents required to better reflect what type of documents people actually have. Finally, he stated that there needs to be a swift method for appeal for persons denied a license based on identification issues.

E. Mr. Ivan Schumann, Executive Director, Indianapolis Hispanic Chamber of Commerce, said that it had taken him four years to learn Hoosier culture. It is hard for persons moving to Indiana to learn what is necessary to function.

III. Commercial Driver's Licenses

A. Senator Kenley called on Senator Marvin Riegsecker to discuss the issues he had included in SCR 50 which the Legislative Council assigned to the Administrative Rules Oversight Committee for the 2002 interim. Senator Riegsecker said that he had been made aware of a number of issues regarding commercial trucking licenses. Many of the problems initially brought to him have been solved. There is still concern with the enforcement of safety measures and adequate hiring of enforcement personnel.

B. Mr. Kenny Cragen, Indiana Motor Truck Association, indicated that he had talked with Jim Poe and Major John Hill who would testify later and that he endorsed what they would say. He said the One Stop Shop for commercial driver's licenses enacted in 1985 had brought about major improvements in the way the licensing system works. There were three purposes for the one stop shop concept including elimination of duplication of effort among state agencies, expediting obtaining licenses, and increasing cooperation with other states. There can be improvements in the one stop shop process, but it is a real improvement over the previous system.

C. Mr. Jim Poe, Administrator, Department of Revenue, Motor Carrier Services, discussed civil forfeiture, specifically elements of the Ohio system. (Exhibit 2) Mr. Poe indicated that there were problems with inconsistencies over the way local courts handle trucking violations. In response to questions, Mr. Poe said that the Ohio system does not address issues of drug, alcohol, and weapon violations in a manner that would be beneficial.

D. Major John Hill, Indiana State Police, Commercial Vehicle Enforcement, provided the Committee with information concerning the number of enforcement officers needed and the salaries of the officers. (Exhibit 3) He stated that while the need for more enforcement has increased, the amount of money spent has not been keeping pace. Also,

officers are not paid enough money to attract and retain them. Part of the money which is received from fines has been diverted to areas other than enforcement.

E. Greg Zoeller, Section Chief, Office of the Attorney General, discussed new federal regulations regarding penalties against unsatisfactory drivers. (Exhibit 4) Mr. Zoeller reported that while there is a three year period for full compliance with the new federal standards, the state should really not delay and should begin adopting compliance measures immediately.

There was a discussion of issues surrounding hardship driver's licenses and the relationship between receiving a hardship license from the Bureau of Motor Vehicles and the granting of a commercial driver's license where the commercial license was not specifically part of the court order for the hardship license. It was suggested that the Attorney General consider including the necessary clarifications in his legislative package.

IV. Discussion of future Meetings

Senator Kenley said that in addition to a continuation of the discussion of the driver's license identification issues and commercial driver's licenses, the Committee had two other issues to consider - campground rules of the Department of Health and a letter which members received from Representative Brent Steele concerning storage of gunpowder.

Regarding the Bureau of Motor Vehicles identification procedures, after much discussion, the Committee has asked the Bureau to come to the next meeting with an update on the changes in procedures which Commissioner Coleman said were going to be made. The Commissioner indicated that the modifications would be made very soon. The members expressed their concern that the process for establishing standards and criteria be public. Representative Murphy made a motion which was seconded by Senator Lubbers to request that the Bureau of Motor Vehicles hold a hearing before making modifications to the current procedures. The motion was withdrawn after discussion that it might actually slow down the process of getting modifications made. The members did, however, make it clear that they feel there should be a rule making process with public input in the future.

Concerning commercial driver's licenses, Senator Kenley said that he thought it would be helpful if he and the staff attorney prepare for the Legislative Council a brief report on what was presented and present the report at the next meeting. The Committee members concurred.

Senator Kenley reported that negotiations are underway for the Department of Health campground licensing rule. He expects that the issue will be resolved before the next meeting. Senator Kenley will be contacting Representative Steele concerning his concerns with regulations on the storage of certain ammunition.

The next meeting of the Committee will be Friday, October 4, at 10:00 A.M., in Room 233 of the State House.

The meeting was adjourned at 12:25 P.M.